

Statement on the situations of LGBTI community in Vietnam Vietnam UPR Pre-session

Greetings from Vietnam,

My name is Phong Vuong, representative of The Institute for Studies of Society, Economy and Environment (iSEE), a non-governmental organization working for LGBTI rights in Vietnam. We are a part of a coalition of LGBTI activists and organizations that have been engaging with the UPR process through reporting and in-country lobbying.

In this statement, I would like to give you an overview about the situations of the LGBTI community in Vietnam. The statement will cover 4 issues, (1): Protection from discrimination, (2): Right to legal gender recognition and gender affirmation treatment, (3): Right to marriage, (4): Right to bodily integrity of intersex people.

First of all, I would like to commend the Government of Vietnam for their commitment to the advancement of LGBTI rights in-country, namely the passing of Article 37 of the 2015 Civil Code recognizing the right to legal gender recognition and access to gender affirmation treatment. In the 2nd cycle of UPR, Vietnam also accepted a recommendation from Chile to enact a comprehensive anti-discrimination law to protect all citizens regardless of sexual orientation and gender identity. However, the LGBT community in Vietnam still face discrimination in various aspects of their lives, which brings me to the first issues:

(1) A lack of protection from SOGIE-based discrimination

- Although Vietnam has accepted Chile's recommendation, no comprehensive anti-discrimination law has been enacted or included in the latest law-making agenda of the National Assembly. In fact, sexual orientation and gender identity are not explicitly provided as a forbidden ground of discrimination in any of Vietnamese laws or policies.
- LGBTI people in Vietnam face discrimination in many aspects of life. One of three reported facing discrimination in the last 12 month, within families, education, workplaces or healthcare, according to our 2015 study. Only 2% reported these incidents to polices or local authorities.

We urge the State to:

- Implement the recommendation made by Chile, within 2 years, to pass a comprehensive anti-discrimination law that prohibits discrimination on the basis of sexual orientation and gender identity in all areas of public life, including employment, education and healthcare.
- Explicitly provide "sexual orientation" and "gender identity" as a forbidden ground of discrimination in the Revised Labour Code and other laws.
- Include sexual and gender minorities in the compulsory curriculum of comprehensive sexuality education.

(2) Right to legal gender recognition and gender affirmation treatment

- In 2015, Vietnam passed the Civil Code which recognized the right to legal gender recognition of transgender people. Although the law came into effect in 2017, it required an additional Law on Transgender to further regulate article 37. However, the Law on Transgender is not officially scheduled in the law-making agenda of the National Assembly as of 2019, and therefore this right cannot be realized.
- This gap in implementation leaves transgender people vulnerable for discrimination in many aspects. They continue to be the group facing the highest rate of discrimination (for example, 59.7% of trans people experienced job denial based on gender identity and expression)
- There are also concerns about the requirements of trans people to undergo medical interventions in order to legally change their documentations. This is a contradiction to the right to legal identity, and will leave behind a portion of the transgender community who cannot or do not wish to medically transition.

We urge the State to:

- Enact a legal instruction, as required by the Civil Code, within 2 years, to ensure that transgender and non-binary people can access gender affirmation treatment and legal gender recognition on the basis of self-determination.

(3) Right to marriage

- In 2014, the ban on same-sex marriage was removed from the Law on Marriage and Family, along with all fines related to same-sex weddings. However, same-sex marriages, including those conducted in other countries, are not formally recognized.
- The lack of recognition of same-sex marriage or any other form of relationship denies same-sex couples of all legal protections, including inheritance rights and adoption. It is also a contributing factor to the stigma and discriminations against LGBTI community

We urge the State to:

- Legalize same-sex marriage to ensure same-sex couples have the equal rights of founding a family and other civil protection before the law.

(4) Right to bodily integrity of intersex people

- Despite being characterized as a human rights violation by several UN treaty bodies (CAT, CRC, CEDAW), medical interventions are still performed on intersex infants and children without their informed consent. Such medical interventions are allowed by the law, specifically Article 36 of the Civil Code.
- This is a direct violation of intersex people's right to bodily integrity and may create medical problems or severe, lifelong physical and mental suffering.

We urge the State to:

- Immediately outlaw non-consensual and non-medically necessary medical interventions performed on intersex infants and children in the Civil Code and in other laws, and guarantee intersex people their rights to bodily integrity and self-determination.

In conclusion, the LGBTI community demands protections from discriminations and harmful practices, in order to fully enjoy our human rights. We urge the State to continue working with international and domestic partners to implement the aforementioned recommendations to strive for a Vietnam inclusive and safe for all.

Thank you.